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April 10, 2012

Lisa Jackson, Administrator  
US Environmental Protection Agency  
1200 Constitution Avenue NW  
Washington, DC 20460

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I urge you to appeal the egregious and incorrect recent court ruling that overturned its veto of the Clean Water Act permit for the "Spruce #1" strip-mining permit in West Virginia. This veto was an absolutely warranted and legally mandated exercise of EPA's authority under the Clean Water Act to protect the navigable waters of the United States from the most complete and comprehensive possible harm, namely the burial of entire streams under mining waste.

After many years, under the Bush Administration and prior, of the EPA ignoring clear mandates of the Clean Water Act in deference to the coal-industry's cost-saving use of explosives against our streams and rivers, EPA mercifully enforced the law for the first time at the "Spruce #1" mountain-scalping permit. Although this change in custom from breaching the Clean Water Act toward observance struck this judge as unusual, it is not beyond EPA authority, as the judge alleged in his ruling. Instead, the this type of ecological genocide is exactly what the Clean Water Act was meant to prevent, and the EPA is the sole agency with both the independence of constituency and scientific expertise to exercise this law.

The US Army Corps of Engineers illegally issued this "Spruce #1" permit, as has been its custom as a rogue agency in the realm of mountain-scalping, in violation of the Clean Water Act's prohibition on undue degradation of our aquatic ecosystems. There exists no more complete destruction of our water resources than their complete burial and elimination under mining "overburden," as the formerly living soil and forest of the Appalachian Mountains becomes known, once the mining company completes is evisceration of a particular mountain.

The judge who overturned the EPA's veto of this permit fails to understand the clear purpose and letter of the Clean Water Act. The ruling explicitly contravenes and abdicates the EPA's uniquely critical role in upholding the Act in the inter-agency process, often against the wishes of other agencies such as the COE that have narrow industrial or economic constituencies. The EPA, by contrast, is mandated to protect the interests of all Americans in protecting a livable planet, including our aquatic ecosystems, even when it frustrates the parochial development goals of other agencies such as COE that have traditionally served as a mere party to various public-private economic growth projects.

The 7 miles of streams that the "Spruce 1" mine expansion promises to destroy would be added to the sad and morally numbing tally of biologically vibrant waterways whose destruction EPA has sanctioned over the past 20 years. Most Americans would be shocked to know that, even as the US government professes concern at the blowout in the Gulf of Mexico, it had willingly contemplated a similarly complete ecological obliteration of Appalachian watersheds prior to the EPA's admirable and legally correct veto of the COE permit. Americans would be further shocked to learn that a federal judge would reinstate a death warrant for yet another Appalachian Mountain. EPA must appeal this ruling, and take all administrative measures in its power to prevent this permit from issuing. President Obama committed in his campaign to stop the destruction of the Appalachian Mountains, and the "Spruce #1" mine, as one of the largest-ever mountain scalping projects in one of the most heavily eviscerated areas of the Appalachians, is a clear and representative place for the



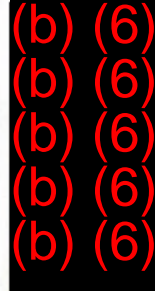
Administration to draw a line in the forest. If EPA does not appeal this death warrant for these 2,000 acres of Appalachian forest encompassed by the proposed permit, then the Administration will lack any moral standing or precedent to keep explosives away from the rest of the Appalachians. There is little substantively to differentiate the proposed biocide at "Spruce 1" from the most heinous destruction of the Appalachians that the EPA and Army Corps of Engineers have permitted for the past 20 years. To state the question succinctly, if the Administration cannot defend the Appalachian forests and streams under the auspices of the Clean Water Act, against the proposed "Spruce #1" biocide, is there any such mountain-scalping that it can reject?

**As a Tennessee resident of our precious Appalachian landscape, I hold you to the moral imperative that you appeal this erroneous and scientifically illiterate judge's ruling to reinstate the "Spruce 1" permit,** and exercise all other legal tools available to the Administration to bring a permanent cease-fire on the Appalachian Mountains. Mountain-scalping coal mining is diametrically opposed to the public interest in maintaining a livable landscape and its waterways, as codified in the Clean Water Act and its handling of navigable waters. **The Clean Water Act and other environmental laws did not envision the complete obliteration of waterways and mountain topography as a permissible activity.** The failure of this particular judge to recognize the clear letter and intent of our environmental laws to prevent the most egregious destruction of the Appalachian Mountains must not deter the Administration from upholding its responsibilities.

Mountain-scalping is the single most critical environmental issue facing America's biological heritage, and will carry the greatest physical scars of the Administration's failure of stewardship, if indeed it does fail in the Appalachians by letting this heinous and immoral ruling stand. Coal companies have already permanently destroyed over 1.4 million acres of the Appalachian forests, and permanently buried over 2,000 miles of streams over the past 20 years into adjacent valleys. **This outrage will stop when EPA enforces the Clean Water Act and other environmental laws as they were intended,** starting with a renewed rejection of the "Spruce #1" permit. Thank you for your attention to this urgent issue.

Sincerely,

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Important Information Enclosed

Mr. Jason, Administrator  
US Environmental Protection Agency  
1200 Constitution Avenue NW  
Washington, DC 20460

Please use the correct region and the correct zip code to the "zip" field in the "address" field.



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